



FREDERICK COUNTY PLANNING COMMISSION

September 13, 2013

TITLE: **Preston Section Two Combined Preliminary Subdivision/Final Site Development Plan**

FILE NUMBER: **S-1010 (SP-07-10), APFO #13562 (AP #13561 & FRO #13563)**

REQUEST: **Preliminary Subdivision/Final Site Development Plan and APFO Approval**

The Applicant is requesting Preliminary Subdivision/Final Site Development Plan and Adequate Public Facilities approval. The project consists of subdivision approval for 98 lots (59 Single Family detached and 39 Townhouse) and site development plan approval for the 39 townhouse dwellings, on a 29.69-acre site.

PROJECT INFORMATION:

LOCATION: Located at the terminus of Preston Drive and Broad Branch Way off Baltimore Road.

TAX MAP/PARCEL: Tax Map 78, Parcels 243 & 681

ZONE: R-3 Residential/GC General Commercial

REGION: New Market

WATER/SEWER: S-3/W-3

COMP. PLAN/LAND USE: Low Density Residential/General Commercial

APPLICANT/REPRESENTATIVES:

APPLICANT: Bronco LLP and Clifton Drive LLP

OWNER: same

ENGINEER: Harris, Smariga & Associates, Inc.

ARCHITECT: Not Listed

ATTORNEY: Not Listed

STAFF: Tolson DeSa, Principal Planner II

RECOMMENDATION: Conditional Approval

ATTACHMENTS:

Exhibit #1- Site Plan Rendering

Exhibit #2- Preston Section II Original APFO Letter of Understanding

Exhibit #3- Preston Section II 1st Amended APFO Letter of Understanding

Exhibit #4- Parking Space Modification Request

Exhibit #5- Landscaping Plan Modification Request

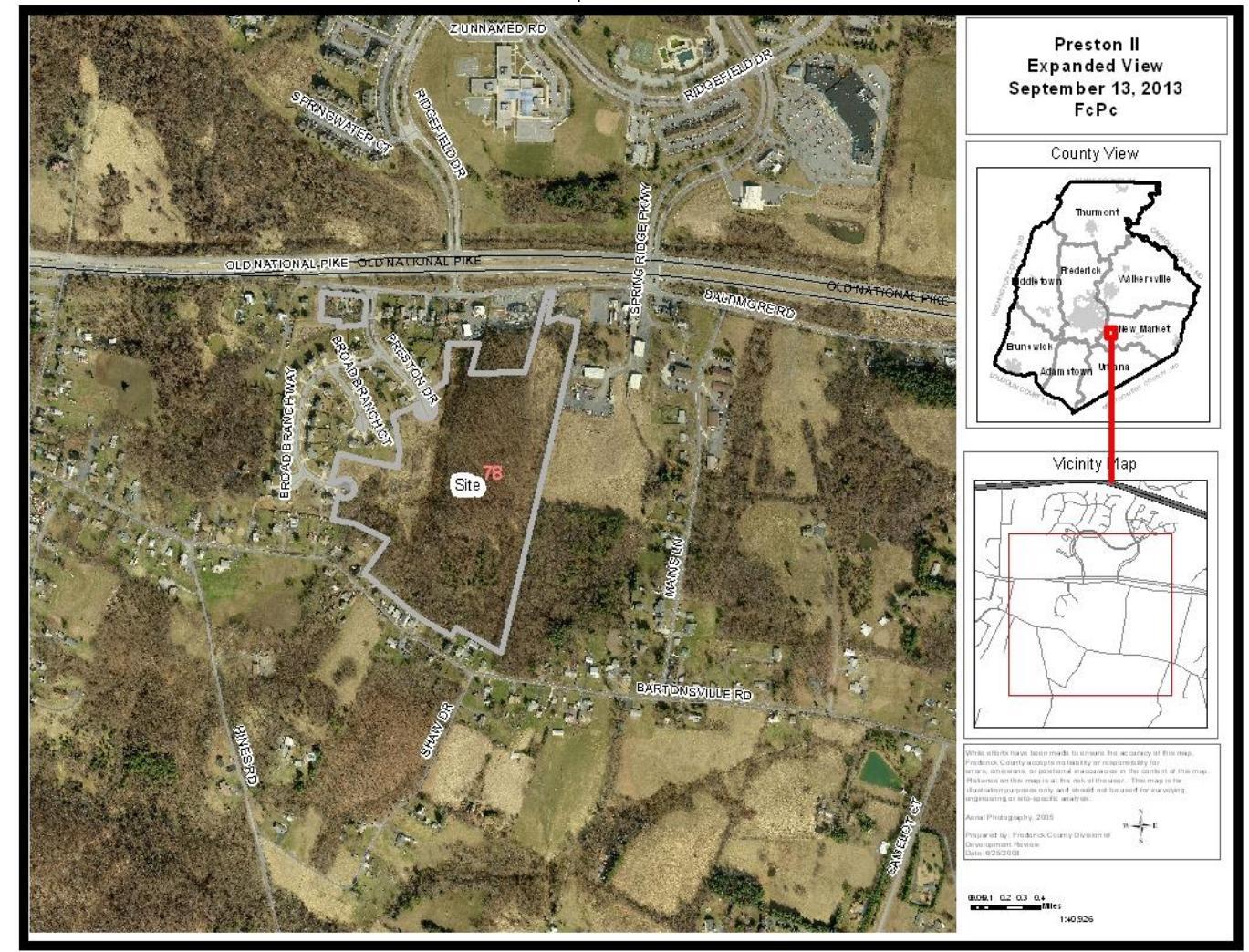
STAFF REPORT

ISSUE

Present Proposal:

In the current application, the Applicant is requesting Combined Preliminary/Final Subdivision and Site Development Plan and APFO approval. The project consists of subdivision approval for 98 lots (59 single-family detached and 39 townhouse) and Site Development Plan approval for the 39 townhouse dwelling on 29.69 acres. The plan proposes 108 parking spaces for the townhouse units located along Bart's Way and Shepherd Lane. The proposed project is subject to the Frederick County Subdivision Regulations for subdivision approval and the Zoning Ordinance for Site Development Plan approval. The proposed use is being reviewed for Site Development Plan approval as a Townhouse land use under the *Residential Uses* heading per § 1-19-5.310 Use Table of the Zoning Ordinance. The setbacks proposed for this subdivision are based on the Moderately Priced Dwelling Unit Program for land uses within the R-3 zoning district in accordance with Zoning Ordinance Section 1-19-8.620.5. This proposed townhouse land use is a principal-permitted-use subject to site development plan approval in the R-3 zoning district. See Graphic #1 below.

Graphic #1 Aerial



BACKGROUND

Subdivision History of Original Preliminary Plat: The Frederick County Planning Commission (FcPc) originally approved a preliminary plan for 109 single-family lots (comprising both Sections 1 and 2) on public water and sewer in 1991. Due (in part) to the delay in availability of sewer capacity, extensions were granted in 1994, 1996, and 1997. Thirty-five (35) lots were recorded in October 1996, which compose Section 1 of this development. *Section 1 is an all age community.*

The developer sought a further extension of the preliminary plan (comprising both Sections 1 and 2) and APFO approval for the remaining 74 lots in November 1996. At the November 1996 hearing, the FcPc determined that the project did not pass the APFO schools test. The Applicant amended the application to reduce the requested number of lots to 64. In December 1996, the FcPc determined that 64 lots in Preston passed the APFO schools test and approved a three-year extension of the preliminary plan for 64 lots, of the original 74 remaining lots.

In July 1997, the Applicant requested an APFO re-test for the original 74 remaining lots, due to acceleration of the Spring Ridge Elementary School building addition in the County's Capital Improvements Program (CIP). In September 1997, the FcPc granted conditional approval of the APFO re-test subject to: *"No building permits being issued until funding at Spring Ridge is approved"*. However, in 1999 the FcPc denied the preliminary plat extension due to the inability to pass school APFO tests, and the preliminary plan approval was voided.

August 2002 Cluster Plan (Section 2): The Applicant for this property applied for an 84-lot plan for Section 2 under the cluster provisions of the Zoning Ordinance. The FcPc granted conditional approval in August 2002. However, the subsequent adoption of the Moderately Priced Dwelling Unit (MPDU) Ordinance in November 2002 essentially superseded the "cluster" design provisions by providing "by-right" lot size and setback reductions. Also the MPDU provisions allow townhouses in the R-3 Residential zone.

October 11, 2006 (Section 2): The Applicant abandoned the 2002-approved cluster plan and proposed an 84-lot subdivision (Section 2) that utilizes the lot size and setback reductions, along with the inclusion of townhouses (or "villa") lots allowed by the MPDU provisions. *This proposed subdivision was an age-restricted community* composed of 84 Single-Family lots [41 Detached, 32 Market Villas (townhouses), and 11 MPDU Villas (townhouses)]. All of the villa units (or townhouses) will required site plan approval by the FcPc.

On October 11, 2006, the Frederick County Planning Commission (FcPc) reviewed and conditionally-approved a Preliminary Subdivision Plan for this site (Preston, Section 2) for 84 single-family lots. Preston, Section 2 was approved as an **age-restricted community**. The FcPc added the following conditions to the approval:

- 1) Comply with all agency comments throughout the completion of the project including State Highway, Fire Marshal, Division of Utilities and Solid Waste Management, Historic Preservation, Traffic Engineering, Health Dept., Development Review Engineering, Development Review Planning, the Department of Parks and Recreation and the Board of Education.
- 2) Note on the plat that the amenities shall be re-examined at the time of Site Plan review in order to provide a more complimentary set of amenities with the adjoining Mains Property.
- 3) Provide agreement from the adjoining Mains Property owner agreeing to join HOA's, and to joint alley uses.
- 4) Provide full public right-of-way for the rotary, attempting to preserve as much of the root zone for the specimen trees as possible.
- 5) Add note to forest plan indicating the requirement for a Root Pruning and Fertilization Plan prepared by a Maryland Licensed Tree Expert as part of the Final Forest Conservation Plan.

Additionally, the FcPc conditioned the approval on the three “items of findings” and two proffers from the Applicant: Based on the correspondence in the record,

- 1) There shall be a sharing of the amenities with the adjoining Mains Property and that the Applicant shall prepare a list of amenities that shall be complementary.
- 2) There shall be a joint Home Owner’s Association with the Mains Property to serve both communities.
- 3) Financial guarantees for the roads in the Mains Property shall be in place prior to this Applicant executing financial guarantees for the roads (and other improvements) for the Preston, Sec. 2 property.
- 4) The Applicant shall meet with the homeowners of Preston, Section 1 to discuss their issues with regard to amenities (and access) prior to site plan presentation to the FcPc. (Staff would note that this issue needs to be presented for Staff review prior to the TAC meetings for the Site Plan.)
- 5) The Applicant shall work to place construction traffic off of the Preston, Section 1 roads in either the 30’ easements to the service road or through Mains Property.

A preliminary plat request was scheduled before the FcPc for approval of 86 single-family lots on June 13, 2007. The design contained 41 single-family detached (SFD) lots, 34 Villa (Townhouse) lots and 11 MPDU (Townhouse) lots, for a total of 45 townhouse lots. However, the case was not heard because of posting problems. Subsequently, however, the Staff discovered that the application (and related Staff report) failed to identify a requirement for the number of townhouse units not to exceed 50% of the total number of units within the project. The requirement for a maximum of 50% townhouse units is contained within a footnote in the Zoning Ordinance under Section 1-19-5.310 Use Table:

Uses	RC	A	R1	R3	R5	R8	R12	R16	VC	MX	GC	ORI	LI	GI
Townhouse				PS*	PS	PS	PS	PS	PS	PS				

***Townhouses will be permitted only within MPDU developments; however, in no event shall the number of townhouses exceed 50% of the total number of units within the MPDU project.**

This oversight was communicated to the FcPc members by email upon its discovery shortly after the June 13, 2007 FcPc Meeting. Therefore, the June 13, 2007 FcPc preliminary plat application was not valid because that plan did not meet the maximum 50% townhouse requirement.

The Applicant re-submitted the plan and correctly showed 44 SFD and 43 townhouse units, which represented a net gain of one (1) lot. The Applicant sought a new preliminary plan and APFO approval. As with the previous application, the development was proposed to join the Home Owner’s Association (HOA) for this development with the adjoining Mains Heights HOA. Also, both of these developments were ***age-restricted communities subject to the Moderately Price Dwelling Unit (MPDU) provisions.*** After approval of the preliminary plan, the Applicant was also required to obtain site plan approval from the FcPc.

The Preston 2 Preliminary Subdivision Plan received conditional approval from the FCPC on September 12, 2007. This application was granted a six year extension in 2011, which extended the expiration date to September 12, 2016.

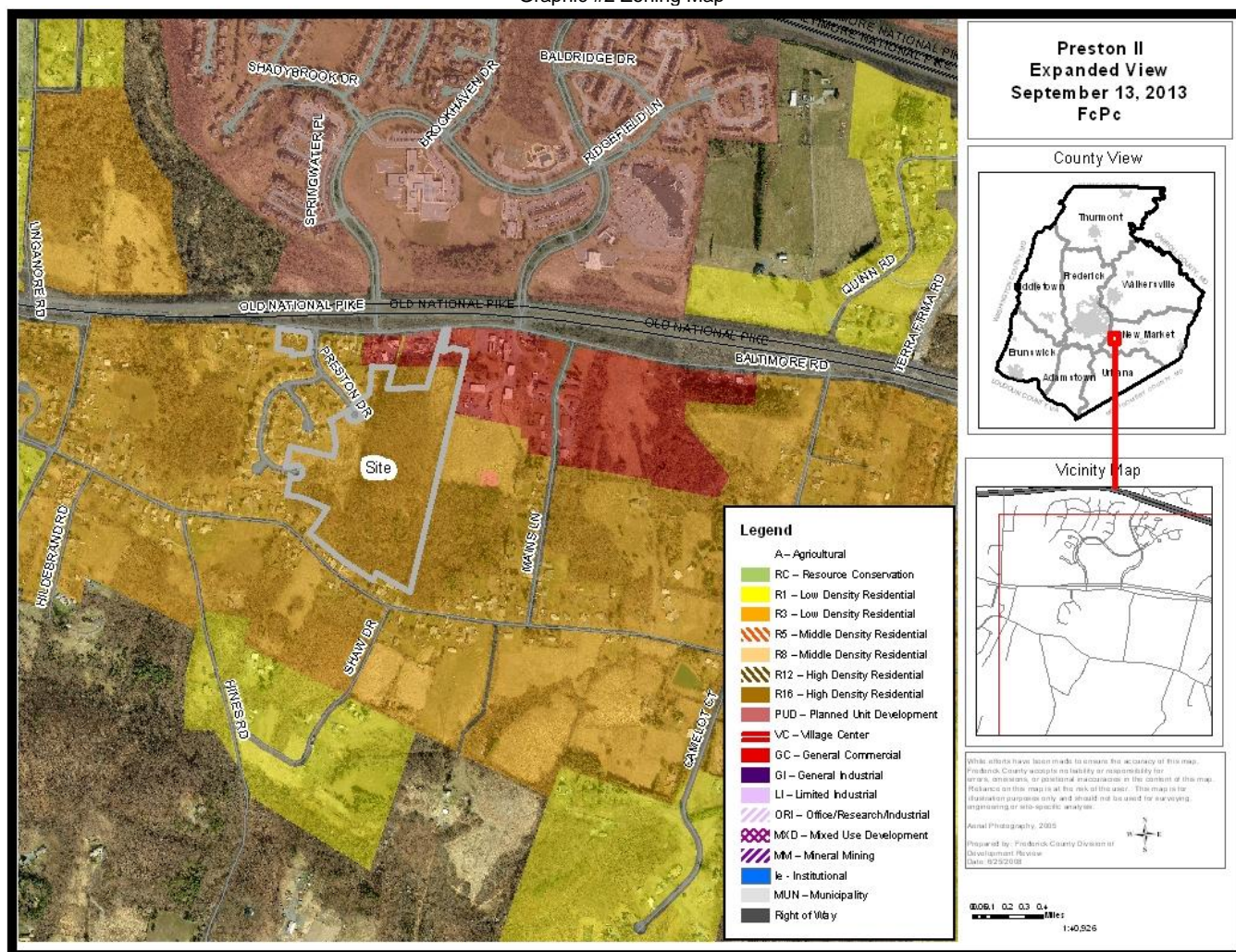
Background for Mains Heights Adjoining Age-Restricted Community: Immediately to the east is the Mains Property, which was originally proposed and approved as an age-restricted community. On April 12, 2006, the FcPc also approved a 59-lot preliminary plat for an ***age-restricted community*** called Mains Heights. The Mains Heights design includes a clubhouse, tennis court, putting green, gazebo, forest preservation and trails that connect to the sidewalk system and to the alleys. The Applicant of Preston, Section 2 proposed allowing shared-use of the amenities.

However, the approval for Mains Heights was for a separate development having a separate Home Owner's Association (HOA). During the 2006 reviews, Staff recommended that both owners consider joining the HOAs so that shared recreation facilities could be offered to the residents. At the October 2006 meeting, the owner of Preston, Section 2 agreed to join the HOAs.

As is stated above, **the Applicant is currently requesting** Combined Preliminary/Final Subdivision and Site Development Plan and APFO approval for 98 lots (59 single-family detached and 39 townhouse).

The majority of the Preston II site is currently zoned R-3, and is a vacant wooded parcel that slopes significantly downgrade from east to west. There is a small portion of General Commercial (GC) zoning at the northern tip of the site that serves as the main access into the development. There are no homes proposed within this GC portion, only the access drive into Preston II. Baltimore Road and Interstate 70 run parallel along the northern border of the site. The surrounding property to the east is presently vacant although it will be developed with the 59 lot Mains Heights development which received FCPC approval in September of 2007. The property to the west of the subject site is the existing and built out Preston I subdivision. The southern boundary of this site consists of small single family home sites with access onto Bartonsville Road. See Graphic #2 below.

Graphic #2 Zoning Map



ANALYSIS

The primary issue associated with this project was the overall design and proposed road connectivity between the existing Preston Section I, proposed Preston Section II and the proposed and approved Mains Heights subdivision.

Staff also worked with the Applicant on design improvements to Shepherd Drive and Shepherd Lane. These efforts included increasing the specimen tree preserve area as well as providing the residents/visitors of the townhouses along Shepherd Lane with a bypass area off of the main access road to increase parking and improve access. These design shifts were coupled with an increased central green in order to provide additional parking and green space for the townhouses. The longer central green also increased the number of residential lots with access to the central green area located directly across the street. The central green area is proposed to be terraced with landscaped stormwater management systems. The grade increase travelling north to south along Shepherd Drive will create dynamic views of the central green area from the street as well as from the various home sites.

ANALYSIS OF SITE DEVELOPMENT PLAN REVIEW CRITERIA

Site Development Plan Approval shall be granted based upon the criteria found in §1-19-3.300.4 Site Plan Review and Approval Criteria of the Frederick County Zoning Ordinance.

Site Development §1-19-3.300.4 (A): *Existing and anticipated surrounding land uses have been adequately considered in the design of the development and negative impacts have been minimized through such means as building placement or scale, landscaping, or screening, and an evaluation of lighting. Anticipated surrounding uses shall be determined based upon existing zoning and land use designations.*

- 1. Dimensional Requirements/Bulk Standards §1-19-6.100:** The setbacks proposed for this subdivision are based on the Moderately Priced Dwelling Unit Program in accordance with Zoning Ordinance Section 1-19-8.620.5.

	R-3 Required:	<u>Allowed per MPDU:</u>	<u>Proposed:</u>
Single Family Units:			
Min. Lot Width:	80'	40'	51' Min.
Front Yard:	30	10'	25'
Side Yard:	10	4/10'	5'
Rear Yard:	30	25'	25'
Min. Lot Size:	12,000 Sq Ft	4,000 Sq. Ft.	5,100 Sq Ft min.
	R-3 Required:	<u>Allowed per MPDU:</u>	<u>Proposed:</u>
Townhouse Units:			
Min. Lot Width:		16'	20'
Front Yard:		10'	15': 25' for Garage TH's
Side Yard:		4'/10'	5'
Rear Yard:		20'	20'
Min. Lot Size:		1,600 Sq Ft	1,700 Sq Ft

- 2. Signage §1-19-6.300:** The Applicant is not proposing any signage at this time.

3. **Landscaping §1-19-6.400:** The Applicant has provided a landscaping plan in accordance with Zoning Ordinance Section 1-19-6.400. The plan proposes a mix of evergreens and deciduous trees.

The Applicant is requesting a landscape plan modification in accordance with Section 1-19-6.400(I) in order to shift street trees from the Right-of-Way of the public streets onto the proposed single family lots and to modify spacing distance.

The Applicant has submitted a Landscaping Modification Statement, which is attached to this staff report as Exhibit 5. In accordance with Zoning Ordinance Section 1-19-6.400(A) Street trees are required along the property line adjacent to the proposed public right of way in a planting area no less than 7' wide and consisting of one tree per every 35' of roadway frontage.

The Applicant has provided several reasons for the modification request. The proposed road sections do not provide a 7' wide planting space within the public right of way. Staff worked with the Applicant on the road design of Broad Branch Way and Shepherd Drive and stressed the placement of 5' wide sidewalks as well as the provision of a 7' wide parallel parking area along both streets with two 10' wide lanes. This road cross section provides a continual pedestrian network throughout the development and well as increased traffic calming along the main access roads. The road cross section only leaves a 2.5' wide area between the curb and the sidewalk. Staff supports this landscape modification request in order to shift street trees from the Right-of-Way of the public streets onto the proposed single family lots.

The Applicant is also requesting approval of a landscaping modification to permit the spacing of street trees at a distance greater than 35' on center. The minimum lot widths are 51' wide, and therefore physical site constraints prevent the placement of street trees every 35 feet. The spacing is further reduced due to the on-site private driveways and the 10' landscape boundary from all water and sewer laterals. Therefore, Planning Commission approval of one tree for every single family lot is requested rather than one tree for every 35' of street frontage. Staff supports this landscape modification request in order to permit the spacing of street trees at a distance greater than 35' on center and accommodate the on-site physical constraints.

4. **Screening §1-19-6.400:** The Applicant has proposed an adequate landscaping/screening plan which adheres to the requirements of 1-19-6.400.
5. **Lighting §1-19-6.500:** The Applicant has provided a lighting detail on Sheet 3 of 7. The Applicant is proposing 5-foot tall carriage type lighting for all of the single family lots. The townhouse portions of the site will be lit by building mounted, front-door style lights similar in vernacular to the single family lots carriage lights.

The lighting plan was designed to provide minimal light spillage not to exceed 0.5 foot candles at the periphery of the property.

Conditions:

1. Approval of the Landscape plan modification in accordance with Section 1-19-6.400.I in order to shift street trees from the Right of Way of the public streets onto the proposed single family lots and to modify spacing distance.

Transportation and Parking §1-19-3.300.4 (B): *The transportation system and parking areas are adequate to serve the proposed use in addition to existing uses by providing safe and efficient circulation, and design consideration that maximizes connections with surrounding land uses and accommodates public transit facilities. Evaluation factors include: on-street parking impacts, off-street parking and loading design, access location and design, vehicular, bicycle, and pedestrian circulation*

and safety, and existing or planned transit facilities.

1. **Access/Circulation:** Preston Section II will achieve principal access from a 30' wide two-way access onto Old Baltimore Road. The site would continue to have a secondary access point with Old Baltimore Road via existing Broad Branch Way. Broad Branch Way is currently a cul-de-sac located within the Preston Section I development. Broad Branch Way would ultimately extend through Preston Section II and into the proposed adjacent (approved R-3 subdivision) Main's Heights development. Main's Heights is proposing an east/west connection which extends to Mains Lane, providing a third point of access for this site.

Shepherd Drive (north) splits into Shepherd Lane at an over-sized wooded space that protects 4 specimen trees (all oak), as required by the Forest Resource Ordinance (FRO). This natural space also serves as a traffic calming feature as well as additional green area for the lots to face. Shepherd Lane serves as access and parking for 13 townhouse lots.

2. **Connectivity §1-19-6.220 (F):** The streets in Section 2 connect to Section 1 via Broad Branch Way. Broad Branch Way also provides a connection to the east to the adjoining Mains Heights, which connects indirectly to Mains Lane, and MD 144.

Broad Branch Way (extended) intersects with the proposed Shepherd Drive, which travels north and intersects with Baltimore Road. The southern portion of Shepherd Drive terminates into Bart's Way which is the townhouse portion of the development. Bart's Way will ultimately connect into the adjacent Main's Heights development.

The Broad Branch Way (extended), Shepherd Drive, and Bart's Way road systems connect via private alleys to the adjoining Mains Property alley system.

3. **Public Transit:** This site is not directly served by Transit but **The East County Shuttle** operates between Frederick and Spring Ridge via MD 144 and provides service to Lake Linganore, New Market, and eastern Frederick County upon request.
4. **Vehicle Parking §1-19-6.220:** The Applicant is required to provide 1 space for each townhouse unit plus 0.5 spaces for each bedroom. The Applicant is proposing 39 Townhomes; comprised of 30 conventional (walk-up) units and 9 garage townhouse units, all of the units will have 3 bedrooms, therefore required to provide 2.5 parking spaces per unit. A garage is credited as 0.5 spaces, and driveways are credited as a full space, for a total of a 1.5 space credit.

Shepherd Lane:	13 Walk-out Townhouses
Parking Required: 33 spaces	(13 x 2.5)
Parking Provided: 43 spaces	
Bart's Way:	17 Walkout Townhouses 9 Garage Townhouses
Parking Required: 65 spaces	(26 x 2.5)
Parking Provided: 65 spaces	(9 space outside of garages, 4 in garages, 52 surface spaces)
Total Required: 98	
Total Provided: 108	

The Applicant has submitted a parking space modification statement in accordance with Section 1-19-6.220.A.3., which is attached to this staff report as **Exhibit 4**. The parking overage is to provide additional overflow/visitor parking for the subdivision.

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From previous experience with parking shortages in similar townhouse developments, staff requested that the Applicant provide additional parking spaces during an initial design meeting, and worked the applicant to modify the design to provide the additional spaces. Therefore, staff fully supports this parking space modification.

5. **Bicycle Parking §1-19-6.220 (H):** In accordance with the Zoning Ordinance, the Applicant is proposing 4 bicycle racks. Two of the racks will be located adjacent to the Bart's Way townhouse section and two racks will be located adjacent to the Shepherd Lane townhouse area.
6. **Pedestrian Circulation and Safety §1-19-6.220 (G):** The Applicant has proposed sidewalks along both sides of all of the proposed streets throughout Preston Section II. The Applicant is also proposing a 5' wide asphalt trail which will contain 4 legs which when combined with the proposed sidewalks will create a series of circuitous meandering pedestrian trails. The proposed trail will connect the existing Broad Branch Way cul-de-sac with the proposed townhouse development around Bart's Way. Another trail link will connect the existing Preston Drive cul-de-sac with Broad Branch Way (extended) in two different areas as well as connecting with the sidewalks along Shepherd Drive. This trail linkage will also provide access to the 0.45 acres of relatively flat recreational ground behind Lot 211 and 212.

Conditions:

1. Approval of the parking space modification in accordance with Section 1-19-6.220.A.3., to permit a slight parking overage of 10 spaces above the required 98.

Public Utilities §1-19-3.300.4 (C): *Where the proposed development will be served by publicly owned community water and sewer, the facilities shall be adequate to serve the proposed development. Where proposed development will be served by facilities other than publicly owned community water and sewer, the facilities shall meet the requirements of and receive approval from the Maryland Department of the Environment/the Frederick County Health Department.*

1. **Public Water and Sewer:** The site is classified S-3 DEV/W-3 DEV. the site is to be served by public water and sewer. The entire site is in pressure Zone #1 with water coming from New Design WTP and Sewer flowing into the Ballenger McKinney WWTP.

Natural features §1-19-3.300.4 (D): *Natural features of the site have been evaluated and to the greatest extent practical maintained in a natural state and incorporated into the design of the development. Evaluation factors include topography, vegetation, sensitive resources, and natural hazards.*

Findings/Conclusions

1. **Topography:** The site has a sharp incline running north to south from the proposed access elevation onto Baltimore Road of 340 to 440 feet at the rear of the property. The topography from the existing Preston I subdivision drops from 420 down to 370 as you travel west to east from the existing Broad Branch Way and Preston Drive cul-de-sacs.
2. **Vegetation:** The entire site contains a dense stand of middle aged evergreen trees. To the extent practicable, existing forest stands will remain, the Applicant is proposing 15.27 acres or 51% of the site will remain preserved, forested open space.
3. **Sensitive Resources:** There are no sensitive resources located on site that are affected by the development proposal.

- 4. Natural Hazards:** There are no natural hazards located on site that are affected by the development proposal.

Common Areas §1-19-3.300.4 (E): *If the plan of development includes common areas and/or facilities, the Planning Commission as a condition of approval may review the ownership, use, and maintenance of such lands or property to ensure the preservation of such areas, property, and facilities for their intended purposes.*

- 1. Proposed Common Area:** The Applicant is required to provide 726 square feet per proposed lot or 1.63 acres for open space and common areas. The Applicant has provided 51% or 15.27 acres. In all instances 50% of the 0.82 acres of the required parkland area shall be suitable for dry ground recreational uses with slopes 5% or less. The Applicant has provided a total of 0.45 acres of dry ground recreational area with slopes less than 5%. 15.27 acres of HOA open space provided which includes walking trails and grassed 0.45 acre play field.
- 2. Ownership:** Open space parcels shall be owned and maintained by the Homeowners Association and the proposed development will be incorporated into the existing Preston Homeowner Association.

ANALYSIS OF SUBDIVISION CRITERIA

Subdivision Regulations – Chapter §1-16: This application meets the requirements of the subdivision regulations in Chapter §1-16.

1. Article I: In General - § 1-16-12 Public Facilities

- All of the proposed single family detached lots will access publicly maintained roads with continuously paved surfaces ranging in widths of 28' or 34'. The townhouse portions of the development will access private streets with continuously paved surfaces ranging in widths of 24' or 28'
- The property is classified W3/S3 on the Frederick County Water and Sewerage Master Plan indicating improvements to, or construction of, publicly-owned community sewerage or water systems are planned within a 1 to 3 year time period.

2. Article IV: Required Improvements - §1-16-109 Street, Common Driveway, and Sidewalk Construction:

- Required minimum width for sidewalks is 4 feet. All sidewalks provided are a minimum of 5 feet wide along Broad Branch Way and Shepherd Drive, with the exception of the side of the Shepherd Drive adjacent to the preserved central green area. Bart's Way and Shepherd Lane townhouse portions also contain 5' wide sidewalks on both sides of the street.
- A 5' wide asphalt trail is provided within the development to connect the existing Preston Drive cul-de-sac to Shepherd Drive and Broad Branch Way extended in two separate areas. The 5' wide asphalt trail will also connect Broad Branch Way extended to the Bart's Way townhouse portion.

3. Article VI: Design Standards and Requirements

§ 1-16-217. Land Requirements:

- The designated land use in the Comprehensive Plan for this site of the R-3 is Low Density Residential. This designation is intended to be applied only within Community Growth Areas and indicates a residential density range of 3 to 6 dwellings per acre on public water and sewer. The proposed subdivision is within a Community Growth Area and is for a residential development on public water and sewer with a gross density range of approximately 3 dwelling units per acre.

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§ 1-16-218. *Block Shape:*

- No block dimension is greater than 1800 feet. 5' wide Pedestrian walkways provided on both sides of all streets, with the exception of the central green area located along Shepherd Drive.

§ 1-16-219. *Lot Size and Shape:*

- The setbacks proposed for this subdivision are based on the Moderately Priced Dwelling Unit Program in accordance with Zoning Ordinance Section 1-19-8.620.5 the setbacks are noted on page 6 of this staff report;

§ 1-16-235. *Right-Of-Way and Paved Surface Widths:* New streets to be constructed as part of a subdivision or as other improvements on the land shall require a minimum right-of-way and paved surface width as stated in the Frederick County Design Manual. The functional classification of the street shall be as designated on the Highway Plan. If the proposed new street is not classified on the Highway Plan, then the Planning Commission shall review the classification of the road as proposed by the developer to determine if the construction will be adequate to meet the traffic generated.

- 50' right-of-way provided for local streets, therefore the proposed paved surface width is adequate.

4. Driveway Entrance Spacing Policy

Adopted by the FCPC in 2002 (amended 2004), this policy provides a system of evaluating driveway locations for public safety, to preserve rural character of roads located in rural parts of the County, and allowing tighter spacing in areas of the County designated for denser development. Proposed driveways are all located on local residential streets, which have no spacing restrictions.

APFO – Chapter §1-20:

The original Adequate Public Facilities Letter of Understanding, Preston II, dated December 14, 2011, see attached **Exhibit #2** (the "Original Letter"), is being revised to account for an increase in site density and intensity of 7 additional lots and change in mix, resulting in the need for an increase in school construction fees and road escrow contributions to satisfy APFO requirements. This site was therefore re-tested for APFO roads and schools resulting in the following modifications. The 1st amended LOU is also attached as **Exhibit #3**.

The third paragraph in the "In General" section of the Original Letter is hereby deleted and replaced with the following paragraph:

This Letter concerns itself with the Developer's 29.4 +/- acre parcel of land, which is zoned R-3 Residential, and located west of Mains Lane and north of Bartonsville Road with access on Old Baltimore Road and through the existing Preston, Section 1, Subdivision. This APFO approval will be effective for development of 59 single family detached homes and 39 townhouses on 98 lots, or any variation such that the intensity of vehicle trips or student generation is not increased, as is shown on the preliminary plan for the above-referenced Project, which was conditionally approved by the Commission on September 13, 2013.

The paragraph in the "Schools" section of the Original Letter is deleted and replaced with the following paragraph:

Schools: The Project is projected to generate 22 elementary school students, 14 middle school students and 17 high school students. Based on these numbers and considering enrollment

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projections from pipeline development, the school adequacy test fails for the elementary and middle school levels. The Developer has chosen the option to mitigate the school inadequacy by paying the School Construction Fees under Section 1-20-62 of the APFO. This project is eligible to utilize the School Construction Fee option per the criteria set forth in Section 1-20-62 of the APFO. The School Construction Fees shall be paid prior to plat recordation based on the specific fees listed in Section 1-20-62(E) per unit type and school level to be mitigated.

Roads. The beginning of the "Road Improvements" section of the Original Letter is deleted and replaced with the following paragraph:

September 12, 2011 Traffic Impact Analysis and subsequent revisions, submitted in combination with the Mains Heights Subdivision, were prepared to address APFO requirements and propose mitigation for failing facilities. The analysis is based on traffic generation at a total amount of 70 am and 88 pm weekday peak hour trips.

In accordance with the developer option outlined in Sections 1-20-12 and -13 of the County Code, as a condition of the APFO approval of the Project, the Developer has opted to pay its proportionate contribution (in lieu of construction) toward the following escrow account:

- a. New Escrow Account at the Old National Pike (MD 144)/Quinn Orchard Road/I-70 EB Ramps Intersection. The estimated cost of the intersection improvement is \$ 460,446. As determined by DPDR-Traffic Engineering Staff, the Developer's proportionate share of this Road Improvement is 6.16%. Therefore the Developer hereby agrees to pay \$28,363 to the escrow account for this Road Improvement

Except as specifically modified by the First Amendment, the Original Letter shall remain unchanged and in full force and effect.

Period of Validity: The APFO approval is valid for six (6) years from the date of the original Planning Commission approval of December 14, 2011; therefore, the APFO approval expires on December 14, 2017.

Forest Resource – Chapter §1-21: A Preliminary FRO plan has been reviewed and conditionally approved. The site contains 20.27 acres of forest. The Applicant proposes to meet the FRO requirements by protecting 4.25 acres of existing forest, planting 1.81 acres of new forest, claiming 0.25 acres of miscellaneous credit, and providing 5.09 acres of Forest Banking Credits. The Preliminary FRO plan must be approved prior to Preliminary subdivision plan approval. A final FRO plan must be submitted and approved, and mitigation provided prior to applying for lot recordation, grading permit, or building permits, whichever is applied for first.

Historic Preservation – Chapter §1-23: There are no historic resources located on this site.

Summary of Agency Comments

Other Agency or Ordinance Requirements	Comment
Development Review Engineering (DRE):	Conditional Approval
Development Review Planning:	Hold: Address all agency comments as the plan proceeds through to completion
State Highway Administration (SHA):	N/A
Div. of Utilities and Solid	Conditional Approval

Other Agency or Ordinance Requirements	Comment
Waste Mngt. (DUSWM):	
Health Dept.	Conditional Approval
Office of Life Safety	Approved
DPDR Traffic Engineering	Approved
Historic Preservation	N/A

RECOMMENDATION

Staff has no objection to conditional approval of the Combined Preliminary/Final Subdivision and Site Plan and APFO. If the Planning Commission conditionally approves the preliminary/final subdivision plan, the preliminary plan is valid for a period of five (5) years from the date of Planning Commission Preliminary Plan approval, or September 13, 2018. The site plan portion approval is valid for a period of three (3) years from the date of Planning Commission Site Plan approval, or until September 13, 2016.

The APFO approval is valid for six (6) years from the date of the original Planning Commission approval of December 14, 2011; therefore, the APFO approval expires on December 14, 2017.

Based upon the findings and conclusions as presented in the staff report, the application meets or will meet all applicable zoning, APFO, and FRO requirements once the following conditions are met:

1. Address all agency comments as the plan proceeds to completion.
2. Approval of the requested parking space modification in accordance with 1-19-6.220.A.1 of the Zoning Ordinance.
3. Approval of the requested landscaping modification in accordance with 1-19-6.400.I of the Zoning Ordinance.
4. The Preliminary FRO plan must be approved prior to Preliminary subdivision plan approval. A final FRO plan must be submitted and approved, and mitigation provided prior to lot recordation, grading permit, or building permits, whichever is applied for first.

PLANNING COMMISSION ACTION

MOTION TO APPROVE

I move that the Planning Commission **APPROVE** the Combined Preliminary/Final Subdivision and Site Plan **S-1010 (SP 07-10) with conditions, and modifications** as listed in the staff report **including APFO** for the proposed Preston II Preliminary/Final Site Plan, based on the findings and conclusions of the staff report and the testimony, exhibits, and documentary evidence produced at the public meeting.





COMMUNITY DEVELOPMENT DIVISION
FREDERICK COUNTY, MARYLAND
Department of Planning and Development Review
30 North Market Street • Frederick, Maryland 21701
www.co.frederick.md.us

ADEQUATE PUBLIC FACILITIES LETTER OF UNDERSTANDING

COMMISSIONERS

Blaine R. Young
President

C. Paul Smith
Vice President

Billy Shreve

David P. Gray

Kirby Delauter

COUNTY MANAGER

David B. Dunn

**COMMUNITY
DEVELOPMENT
DIVISION**

Eric E. Soter
Division Director

**DEPARTMENT OF
PERMITS AND
INSPECTIONS**

Gary W. Hessong
Department Director



TRUTHFULNESS • RESPECT
RESPONSIBILITY • FAIRNESS
COURAGE • CITIZENSHIP

Preston Section 2

Preliminary Plat #S-1010 (Site Plan #SP 02-13) AP #12053

In General: The following Letter of Understanding ("Letter") between the Frederick County Planning Commission ("Commission") and the Bronco, LLLP and Clifton Drive, LLLP ("Developer"), together with its/their successors or assigns, sets forth the conditions and terms which the Commission deems to be the minimum necessary improvements dealing with school, water, sewer, and road improvements that must be in place for the property identified below to be developed, as proposed for the Preston, Section 2, Residential Subdivision (the "Project"), in compliance with the Frederick County Adequate Public Facilities Ordinance, ("APFO").

The Developer, its successors or assigns, hereby agrees and understands that unless the required improvements are provided in accordance with this Letter, APFO requirements will not be satisfied and development will not be permitted to proceed.

This Letter concerns itself with the Developer's 29.4 +/- acre parcel of land, which is zoned R-3 Residential, and located west of Mains Lane and north of Bartonville Road with access on Mains Lane and through the existing Preston, Section 1, Subdivision. This APFO approval will be effective for development of 46 single family detached homes and 45 townhouses on 91 lots, or any variation such that the intensity of vehicle trips or student generation is not increased, as is shown on the preliminary plan for the above-referenced Project, which was conditionally approved by the Commission on December 14, 2011.

Schools: The Project is projected to generate 19 elementary school students, 12 middle school students and 15 high school students. Based on these numbers and considering enrollment projections from pipeline development, the school adequacy test fails for the elementary and middle school levels. The developer has chosen the option to mitigate the school inadequacy by paying the School Construction Fees under Section 1-20-62 of the APFO. This project is eligible to utilize the School Construction Fee option per the criteria set forth in S1-20-62 of the APFO. **The School Construction Fees shall be paid prior to plat recordation based on the specific fees listed in Section 1-20-62(E) per unit type and school level to be mitigated.**

Water and Sewer Improvements: The Property is currently classified in the County's S-3 (Dev.) and W-3 (Dev.) sewer and water categories. Public water and sewer shall be extended to the site and to serve individual lots shown on the plan

APFO approval for water and sewer does not guarantee that plats will be recorded and building permits issued. Plat recordation and building-permit issuance is subject to compliance with the Annotated Code of Maryland, Environment Article Section 9-512, et seq. and all applicable County regulations, including but not limited to Sec. 1-16-106 (of Subdivision Regulations). Plats cannot be recorded until the property obtains water and sewer classification of W-3/S-3; adequate water and sewer capacity exists at that time and improvements required to serve the subject lots are under construction and determined to be within ninety (90) days of completion.

Road Improvements: A September 12, 2011 Traffic Impact Analysis and subsequent revision, submitted in combination with the Mains Heights Subdivision, were prepared to address APFO requirements and propose mitigation for failing facilities. The analysis is based on traffic generation at a total amount of 63 am and 79 pm weekday peak hour trips.

In accordance with the developer option outlined in Sections 1-20-12 and -13 of the County Code, as a condition of the APFO approval of the Project, the Developer has opted to pay its proportionate contribution (in lieu of construction) toward the following escrow account:

- New Escrow Account at the Old National Pike (MD 144)/Quinn Orchard Road/I-70 EB Ramps Intersection. The estimated cost of the intersection improvement is \$ 460,446. As determined by DPDR-Traffic Engineering Staff, the Developer's proportionate share of this Road Improvement is 5.53%. Therefore the Developer hereby agrees to pay \$25,445 to the escrow account for this Road Improvement.

These road escrow contributions must be paid in full prior to final plat recordation. Should this payment not be made within one year of the execution of this Letter, the County reserves the right to adjust this amount, based on an engineering cost index.

The County is in the process of collecting funds for Improvements at the interchange of Old National Pike (MD 144)/Meadow Road and I-70. Once constructed, traffic on MD 144 at Quinn Orchard Road would be expected to be reduced well below projected failing levels, thus negating the need for the mitigating improvement. The Developer agrees to permit the County to apply up to the entire escrow contribution toward this interchange improvement.

Period of Validity: The APFO approval is valid for six (6) years from the date of Commission approval; therefore, the APFO approval expires on December 14, 2017.

Disclaimer: This Letter pertains to APFO approval only, and shall not be construed to provide any express or implied rights to continue the development process. The Project remains subject to all applicable rules and regulations, including but not limited to those related to zoning, water and sewer, and subdivision. The Planning Commission's jurisdiction and authority is limited by State and County law, and approvals may be required from other local or state governmental agencies before the proposed development can proceed.

[Signatures on Next Page]

*Preston Section 2 LOU
December 14, 2011
Page 2 of 3*

DEVELOPER: Bronco LLC and Clifton Drive LLC

By: James E. Jones
Name: General Partner
Title:

Date: 12/5/11

FREDERICK COUNTY PLANNING COMMISSION:

By: John B. McClurkin
John McClurkin, Chair or Robert Lawrence, Secretary

Date: 12/14/2011

ATTEST:

By: Gary Hessong
Gary Hessong, Director, Permitting & Inspections

Date: 12/15/11

Planner's Initials / Date PHD 12/13/11
County Attorney's Office Initials / Date KSM 12/14/11
(Approved as to legal form)

Preston Section 2 LOU
December 14, 2011
Page 3 of 3

FIRST AMENDMENT TO
ADEQUATE PUBLIC FACILITIES LETTER OF UNDERSTANDING
PRESTON SECTION 2

This First Amendment to Adequate Public Facilities Letter of Understanding, ("First Amendment"), between the Frederick County Planning Commission ("Commission") and Bronco, LLLP and Clifton Drive, LLLP (collectively, "Developer"), is made this 11th day of September, 2013, by and between the Commission and Developer.

Explanatory Note: The original Adequate Public Facilities Letter of Understanding, Preston 2, dated December 14, 2011 (the "Original Letter") is being revised to account for an increase in site density and intensity of 7 additional lots and change in mix, resulting in the need for an increase in school construction fees and road escrow contributions to satisfy APFO requirements. This site was therefore re-tested for APFO roads and schools resulting in the following modifications.

The third paragraph in the "In General" section of the Original Letter is hereby deleted and replaced with the following paragraph:

This Letter concerns itself with the Developer's 29.4 +/- acre parcel of land, which is zoned R-3 Residential, and located west of Mains Lane and north of Bartonville Road with access on Old Baltimore Road and through the existing Preston, Section 1, Subdivision. This APFO approval will be effective for development of 59 single family detached homes and 39 townhouses on 98 lots, or any variation such that the intensity of vehicle trips or student generation is not increased, as is shown on the preliminary plan for the above-referenced Project, which was conditionally approved by the Commission on September 11, 2013.

The paragraph in the "Schools" section of the Original Letter is hereby deleted and replaced with the following paragraph:

The Project is projected to generate 22 elementary school students, 14 middle school students and 17 high school students. Based on these numbers and considering enrollment projections from pipeline development, the school adequacy test fails for the elementary and middle school levels. The Developer has chosen the option to mitigate the school inadequacy by paying the School Construction Fees under Section 1-20-62 of the APFO. This project is eligible to utilize the School Construction Fee option per the criteria set forth in Section 1-20-62 of the APFO. The School Construction Fees shall be paid prior to plat recordation based on the specific fees listed in Section 1-20-62(E) per unit type and school level to be mitigated.

The beginning of the "Road Improvements" section of the Original Letter is hereby deleted and replaced with the following paragraph:

A September 12, 2011 Traffic Impact Analysis and subsequent revisions, submitted in combination with the Mains Heights Subdivision, were prepared to address APFO requirements and propose mitigation for failing facilities. The analysis is based on traffic generation at a total amount of 70 am and 88 pm weekday peak hour trips.

In accordance with the developer option outlined in Sections 1-20-12 and -13 of the County Code, as a condition of the APFO approval of the Project, the Developer has opted to pay its proportionate contribution (in lieu of construction) toward the following

escrow account:

- New Escrow Account at the Old National Pike (MD 144)/Quinn Orchard Road/I-70 EB Ramps Intersection. The estimated cost of the intersection improvement is \$ 460,446. As determined by DPDR-Traffic Engineering Staff, the Developer's proportionate share of this Road Improvement is 6.16%. Therefore the Developer hereby agrees to pay \$28,363 to the escrow account for this Road Improvement.

Except as specifically modified by this First Amendment, the Original Letter shall remain unchanged and in full force and effect.

Bronco, LLLP and Clifton Drive, LLLP

By: *James E. Fitzgerald* (SEAL) Date: 8/8/13
Name: Manager, Bronco LLLP
Title: Clifton Drive LLLP
by: *James E. Fitzgerald, General Partner*
FREDERICK COUNTY PLANNING COMMISSION

BY : _____ (SEAL)
Dwayne E. Robbins, Chair or William G. Hall, Secretary Date

ATTEST:

BY: _____ Date
Gary Hessong, Director, Permits and Inspections

Planner's Initials / Date _____

County Attorney's Office Initials / Date _____
(Approved as to legal form)



Harris, Smariga & Associates, Inc.

Planners/Engineers/Surveyors
125 S. Carroll Street, Suite 100/Frederick, MD 21701
301-662-4488/FAX 301-662-4906

August 23, 2013

Mr. Tolson DeSa
Frederick County DPDR
30 N. Market Street
Frederick, MD 21701

Re: Preston Section 2 Combined Preliminary Plan & Final Site Plan A/P # 13561
Parking Space Justification Letter
H.S.A. Job #6014-2-SEC2

Dear Tolson:

The Preston Section 2 Combined Preliminary Plan & Final Site Plan is currently under county review. Planning Commission approval of a modification request to permit parking in excess of that required under section 1-19-6.220 of the Zoning Ordinance is requested as part of this plans approval. Pursuant to this section of the Zoning Ordinance, 2.5 parking spaces are required for each three bedroom townhouse resulting in a total of 98 spaces required. As shown on the plan a total of 108 spaces are proposed. The additional spaces were the result of working with Frederick County Planning Staff after consideration of the projects compact design and limited on-street parking. It has been found that townhouse projects generally require an additional 10- 15% increase in parking above the Zoning Ordinance target number. Even with the additional spaces, both parking lots are of limited size yet still provide additional convenience parking for visitors and residents.

Therefore it is requested that the Planning Commission modify this general requirement to permit the additional parking spaces.

Thank you for your consideration.

Sincerely,

Samuel Francis Zeller
Project Manager

T:\6012-2-SEC2\Correspondence\Parking Justification Letter 8.23.13



Harris, Smariga & Associates, Inc.

Planners/Engineers/Surveyors
125 S. Carroll Street, Suite 100/Frederick, MD 21701
301-662-4488/FAX 301-662-4906

July 8, 2013

Mr. Tolson DeSa
Frederick County DPDR
30 N. Market Street
Frederick, MD 21701

Re: Preston Section 2 A/P # 13561
Street Tree Landscaping Modification Letter
H.S.A. Job #6014-2-SEC2



Dear Tolson:

The Combined Preliminary Plan and Site Plan for Section 2 of Preston is currently under county review. In accordance with section 1-19-6.400(I) - a Planning Commission modification is requested to shift street trees from the Right of Way of the public streets onto the proposed single family lots and to modify spacing distance.

Per section 1-19-6.400(A) of the Zoning Ordinance, Street Trees are required along the property line adjacent to the proposed public right of way in a planting area no less than 7' wide and consisting of one tree shall be provided per 35' of roadway frontage.

Planning Commission approval of the planting of at least one tree per single family lot within the proposed lot boundaries is requested. There are several reasons for this request. The proposed road sections do not provide a 7' wide planting space within the public right of way. Average green space between the curb and sidewalk is approximately 2.5' in width. Therefore it is requested that the street trees be planted on the single family lots where sufficient width can be provided.

Planning Commission approval of spacing greater than 35' is also requested. At 51' minimum lot widths, physical site constraints prevent the placement of street trees every 35'. Limited space remains for tree planting when you consider the space required for the driveway and water and sanitary sewer laterals and the Division of Utilities and Solid Waste 10' planting separation distance to the laterals. Therefore, Planning Commission approval of one tree per single family lot is requested rather than the one tree for every 35' is requested.

For these reasons, we request approval of the planting of street trees on the proposed single family lots at a rate of one tree per single family lot.

Thank you for your consideration. Please contact me if you need additional information.

Sincerely,

A handwritten signature in black ink, appearing to read "Samuel Francis Zeller".

Samuel Francis Zeller
Project Manager

T:\6014-2-SEC2\Correspondence\LandscapingModificationLetter7.8.13.doc